

Panaji, 7th February, 2013 (Magha 18, 1934)

SERIES II No. 45

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA



PUBLISHED BY AUTHORITY

*Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 44 dated 31-01-2013 namely, Extraordinary dated 01-02-2013 from pages 1557 to 1558 regarding Form I from Department of Panchayati Raj & Community Development (Directorate of Panchayats).*

### GOVERNMENT OF GOA

#### Department of Co-operation

Office of the Asstt. Registrar of Co-operative Societies

#### Notification

No. 5-1494-2013/ARSZ/HSG

In exercise of the powers vested in me under Section 8 of the Goa Co-operative Societies Act, 2001, "The Ocean Drive Co-operative Housing Society Limited" Opposite Valmik Centre, Baina, Vasco-da-Gama, Goa is registered under code symbol No. HSG-(b)-877/South-Goa/2013.

Sd/- (A. K. N. Desai), Asstt. Registrar of Co-op. Societies (South Zone).

Margao, 4th January, 2013.

#### Certificate of Registration

"The Ocean Drive Co-operative Housing Society Limited" Opposite Valmik Centre, Baina, Vasco-da-Gama has been registered on 4-1-2013 and it bears registration code symbol No. HSG-(b)-877/South-Goa/2013 and it is classified as "Housing Society" under sub-classification No. 7-(b)-Co-partnership Housing Society, in terms of Rule 8 of Goa Co-operative Societies Rules, 2003.

Sd/- (A. K. N. Desai), Asstt. Registrar of Co-op. Societies (South Zone).

Margao, 4th January, 2013.

Department of Education, Art & Culture  
Directorate of Technical Education  
Establishment Section

#### Addendum

No. DTE/2003/GEDC (B)/3058

Read: Notification No. DTE/2003/GEDC (B)/1526 dated 06-09-12.

The following para may be added below serial No. 7 in the above referred Order.

The Director of Technical Education, Porvorim may attend the meetings of the Board of Goa Education Development Corporation, Porvorim as a Permanent Invitee.

By order and in the name of the Governor of Goa.

*Shri Keshav Chandra*, IAS Secretary (Technical Education).

Porvorim, 4th February, 2013.

#### Department of Labour

#### Notification

No. 28/1/2013-Lab/18

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 29-11-2012 in reference No. IT/1/02 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*D. S. Morajkar*, Under Secretary (Labour).

Porvorim, 14th January, 2013.

IN THE INDUSTRIAL TRIBUNAL AND  
LABOUR COURT  
GOVERNMENT OF GOA AT PANAJI

(Before Smt. Bimba K. Thaly, Presiding, Officer)

Ref. No. IT/1/02

Workmen rep. by  
The General Secretary,  
Gomantak Mazdoor Sangh,  
Shetye Sankul, IInd Floor,  
Tiska, Ponda, Goa. ... Workmen/Party I  
V/s  
M/s Fabril Gasosa,  
P. O. No. 116,  
Campal, Panaji-Goa. ... Employer/Party II  
Party I/Workmen represented by Shri P. Gaonkar.  
Party II/Employer represented by Adv. Shri P. J.  
Kamat.

AWARD

(Passed on 29th day of November, 2012)

In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), (for short 'The Act'), the Government of Goa by order dated 2-1-2002 bearing No. 28/8/2001-LAB/, has referred the following dispute for adjudication.

- "(1) Whether the action of the management of M/s. Fabril Gasosa, having their factory at Borim, Ponda-Goa in closing down the said factory with effect from 1-6-2001 is legal and justified?  
(2) If not, to what relief the Workmen are entitled to?"

2. Upon receipt of the reference IT/1/02 was registered. Notices were issued to both the parties under registered A/D post upon which both the parties were served. Party I filed the statement of claim at Exb. 3. Party II filed the written statement at Exb. 6 rejoinder was filed by Party I at Exb. 6 A.

3. In the statement of claim it is in short the case of Party I that Party II has declared closure w.e.f. 1-6-2001 illegally, in order to victimize the Workmen and though the closure has been declared three workers and officers are still in the employment at the factory. It is stated that Party II has not paid arrears of VDA as per the settlement dated 9-12-1986 before the illegal closure and has also not paid retrenchment compensation in terms of settlement dated 12-12-97 and therefore the retrenchment of the Workmen on account of closure is illegal and bad in law. Party I has therefore prayed to declare that the closure is in violation of the terms of settlement dated 12-12-97, to award legal dues based on the total VDA in terms of the settlement dated 12-12-97, to award ex-gratia of 45 days per year of service and to award

interest of 18% on the amount not paid to the workers in addition to the compensation.

4. In the written statement it is in short the case of Party II that the factory at Borim is closed from 1-6-2001 and the compensation payable on closure is equivalent to the retrenchment compensation. It is stated that there is no dispute of retrenchment existing, as the Workmen/Party I have accepted the factum of closure and thus there is no application of mind on the part of the Government. It is thus stated that on account of above reasons the reference made by the Government is not maintainable. It is stated that Party II is the proprietary concern of late Mr. Erasmo De Sequeira and it was carrying the business of manufacturing aerated water and of soft drinks in its factory at Borim and it employed less than 50 workers. It is stated that Party II was not doing well and had accumulated losses of over ₹ 1 crore and hence it closed its establishment from 1-6-2001, after paying all the legal dues arising out of closure from 1-6-2001. It is stated that on 31-6-01 individual letters were issued to the workers intimating to them that their services are terminated/retrenched on account of closure of the factory from 1-6-2001, who accepted the legal dues alongwith letter of closure and encashed the cheques issued to them. It is stated that all the workers have moved the controlling authority under Payment of Gratuity Act, 1972, for payment of gratuity contending that the claim for gratuity is on account of the closure of factory from 1-6-2001. It is stated that Party I Union, Gomantak Mazdoor Sangh raised the dispute on closure vide letter dated 1-6-2001 wherein it accepted the closure but contended that Party II had not complied with the provisions of law in that the legal dues have not been paid nor the calculations of the dues was done in accordance with the terms of settlement dated 12-12-97. It is stated that the conditions laid down u/s 25F of the Act are not conditions precedent for retrenchment arising out of closure and hence if Section 25F is not complied with, the closure does not become illegal or ineffective. It is stated that Party II had fulfilled all the conditions/obligations of payment of VDA to the workers as per the agreement/settlement dated 12-12-97 before the closure of the establishment on 1-6-2001. Party II has denied that it has declared the closure illegally with effect from 1-6-01 and terminated the services of unionized workers, in order to victimize them. According to Party II, on closure of the factory it terminated services of all the workers and officials except some clerks/officers for doing residual work of accounts, maintenance of machinery etc. Party II has denied that three workers and officers are still in employment at the factory and that it had not paid or offered retrenchment compensation in terms of settlement dated 12-12-97 or that the retrench-

ment compensation is illegal and bad in law. Thus, amongst above and other grounds, Party II has prayed to reject the reference.

5. In the rejoinder Party I has denied the averments made by Party II in their written statement.

6. Based on the above averments, issues at Exb. 7 were framed on 21-6-02.

7. In the course of evidence, Shri Puti Gaonkar, General Secretary, Gomantak Mazdoor Sangh examined himself as witness No. 1 and closed the case. On the other hand Party II examined Dr. Amita De Sequeira witness No. 1 and closed their case.

8. The representatives of both the parties filed written submissions as well as advanced oral arguments.

9. In his arguments Shri P. Gaonkar submitted that Party II has not paid the retrenchment dues of the Workman in terms of the settlement dated 12-12-97 and has illegally declared closure w.e.f. 1-6-2001 in order to victimize the workers. He relied on the judgment in the case of **Poonvasi and Ors. v/s Crown Silk Weaving Industries and Ors. 1994 LLR 888 and Workmen of the Straw Board Manufacturing Company Limited v/s M/s. Straw Board Manufacturing Company Limited 1974 1 LLJ 499** contending that Court has powers to grant compensation.

10. On the other hand Lnd. Adv. Shri P. J. Kamat contended that factory has been closed and that the consequences of closure is not retrenchment. Thus, he stated that provisions of Section 25FFF of the Act are not applicable to such situation. He further stated that in his evidence Shri P. Gaonkar has admitted the factum of closure and therefore the present reference is not maintainable. In support of his submissions he relied on the judgment in the case of **Asian Paints India Ltd. v/s Mazdoor Kranti Union & Anr. 1977 II CLR 1053** and in the case of **Indian Hume Pipe Co. Ltd. v/s Their Workmen AIR 1968 SC 1002**.

11. I have gone through the records of the case and have duly considered the submissions of both the learned representatives.

12. I am reproducing herewith the issues alongwith their findings and reasons thereof.

Sr. No.	Issues	Findings
1	2	3
1.	Whether the Party I/Union proves that the declaration of the closure of the establishment by the Party II is by way of victimization?	Does not arise.

1	2	3
2.	Whether the Party I proves that the closure of the establishment by the Party II w.e.f. 1-6-2001 is not legal and justified?	In the negative.
3.	Whether the Party II proves that the reference is bad in law and not maintainable?	In the positive.
4.	Whether the Workmen are entitled to any relief?	In the negative.
5.	What Award?	As per order below.

#### REASONS

13. *Issue No. 3:* Since this issue relates to maintainability of present reference, the same deserves to be answered before answering the other issues and this is because being a issue on maintainability, it goes to the root of the matter.

14. In the written statement it is averred by Party II that the reference is bad in law for the reasons that Party II has closed down the factory at Borim w.e.f. 01-06-2001; that the consequences of the closure is not retrenchment and that the compensation payable on closure is equivalent to the retrenchment compensation. It is also the averment of Party II that the Workman/Party I have accepted the factum of closure of factory.

15. In the judgment in the case of **Asian Paints India Ltd. v/s Mazdoor Kranti Union and another 1997 II CLR 1053** it is held that if the factum of closure is not in dispute, the reference is not maintainable. Further, in the judgment in the case of **Indian Hume Pipe Co. Ltd. v/s their Workmen AIR 1960 SC 1002** it is observed as under:

*"In our opinion, it was not open to the Tribunal to go into the question as to the motive of the appellant in closing down its factory of Barakar and to inquire whether it was bonafide or malafide with some oblique purpose, namely, to punish the Workmen for the Union activities in fighting the appellant. It has been laid down by this Court in a series of decisions that it is not for Industrial Tribunals to inquire into the motive to find out whether the closure is justified or not. As far back as 1957, it was observed by this Court in **Pipraich Sugar Mills Ltd. v/s P.S.M. Mazdoor Union (I)** that—*

*"Where the business has been closed and it is either admitted or found that the closure is real and bonafide, any dispute arising with reference thereto would, as held in **K. M. Padmanabha Ayyair v/s State of Madras (2)**, fall outside the purview of the Industrial Disputes Act and that will a fortiori be so, if a dispute*

*arises if one such can be conceived after the closure of the business between the quantan employer and employees."*

16. It is therefore clear from the observations in the above judgments that the Tribunal cannot go into the question as to the motive of the employer, in closing down its establishment.

17. In the claim statement and more particularly in para 5 of the same, it is the averment of Party I that in order to victimize the workers, the management has illegally declared closure w.e.f. and terminated the services of the unionized workers. It is also the averment of Party I in para 7 of the claim statement that Party II has not paid or offered the retrenchment compensation in accordance with the terms of settlement dated 12-12-97 and therefore the retrenchment is illegal and bad in law.

18. It may be mentioned here that the terms of reference referred to this Court for adjudication is only to find out whether the action of Party II in closing down factory w.e.f. 1-6-2001 is legal and justified and therefore as rightly pointed out by Lnd. Adv. for Party II, the question of this Court going into the other aspects of matter such as to find out the reasons for closure, does not arise.

19. Shri P. Gaonkar has produced at Exb. W-2, xerox copy of memorandum of settlement dated 11-12-97 but has admitted in his cross examination that it is only a memorandum of understanding. He has produced the xerox copy of settlement dated 12-12-97 in his cross examination, at Exb. E-6. He has admitted in his cross examination that a notice dated 1-6-2001. (Exb. E-1) was displayed on the notice board mentioning that the factory is closed w.e.f. 1-6-2001. He has admitted that the copy of this notice was sent to his Union and that he had sent reply dated 1-6-01 (Exb. E-2) to Party II as General Secretary of the Union. He has admitted that in Exb. E-2, he did not dispute the factual closure of the factory. He has further admitted of having received letter dated 7-6-01 (Exb. E-3) from Party II in reply to Exb. E-2. It may be mentioned here that vide Exb. E-3, Party II had informed the General Secretary of GMS that the retrenchment of the workers was arising out of closure and they have complied with the provisions of law in regard to closure, before effecting the closure. It is also mentioned in this letter that the reasons for closure of this factory w.e.f. 1-6-01 are mentioned in the letters issued to the Workmen and alongwith the said letters Party II has also sent notice wage and retrenchment compensation arising out of closure, by registered A.D. post. Shri P. Gaonkar has further admitted of having sent a letter dated 14-6-01 (Exb. E-4) to Party II. In this letter, it is in short stated that Party II has not implemented the terms of settlement dated 12-12-97 and the legal

dues paid to the Workmen are not calculated in accordance with the terms of settlement.

20. Shri P. Gaonkar was shown letter dated 7-6-01 (Exb. E-5) sent by Workman Shri Gurudas Naik to Party II and he has admitted that similar type of letters were sent by other workers to Party II and in these letters, the factual closure of the factory is not disputed. Though Shri P. Gaonkar has denied the suggestion that by the said letters, the workers raised the dispute only to the extent that they were not paid retrenchment compensation in terms of settlement dated 12-12-97 but perusal of Exb. E-5 reveals that according to Mr. Gurudas Naik the retrenchment is illegal, unjustified and bad in law because he was not paid arrears of VDA as claimed by him before the appropriate authority, in accordance with clause 21 of the settlement dated 12-12-97. Being so, the denial of above suggestion by Shri P. Gaonkar is of no consequence.

21. Shri P. Gaonkar has further admitted that the workers of Party II have filed individual applications before the controlling authority for the Payment of Gratuity Act and the same were prepared by the office of the Union. He has admitted that in these applications, the workers had admitted that the same were filed on account of the closure of the factory. Even for that matter, Ms. Amita Sequeira, the witness for Party II has produced at Exb. E-13 the xerox copy of the application made to the Provident Fund Commissioner by worker Shri Rohidas D. Khandeparkar, for releasing of the provident fund on the grounds that the factory was closed. It is therefore clear from the above discussion that the factum of closure is not in dispute.

22. Though Shri P. Gaonkar by relying on the judgment in the case of **Workmen of the Straw Board Manufacturing Company Limited (supra)** tried to contend that the Tribunal has powers to decide in this reference as to whether the Workmen are entitled to retrenchment compensation and in case such compensation is not paid to direct Party II to pay the same upon determination by the Tribunal, on going through this judgment it is seen that the Apex Court has held that once it was found that there is a closure, the question of applicability of sub-section (1) of Section 25 FFF or the proviso will automatically arise for consideration in determining the compensation. It is also held that after holding that the closure was legitimate, it was incumbent on the Tribunal to adjudicate upon the second issue of the reference for granting appropriate relief as a necessary corollary to the result of the first issue. It may be mentioned here that the terms of reference referred for adjudication by the Tribunal in the aforesaid case were as under:



1. Whether the stoppage of work by the employers and the consequent non-employment by them of the Workmen, detailed in the annexure, in stages as from May 7, 1967 amounts to a lay off/retranchment/lockout or whether it should be treated as a legitimate closure?
2. To what relief, if any, are the Workmen concerned entitled on the basis of the findings on issue No. 1?

23. Thus it is clear from the above terms of reference that the Tribunal had to decide about the relief to be granted to the Workmen only if it came to the conclusion that there was legitimate closure and it is precisely for this reason, according to the Apex Court, it was incumbent upon the Tribunal to decide whether sub-section (1) of Section 25FFF or the proviso thereto applied for determining the quantum of compensation. It is therefore clear, that the observations above cannot be applied to the instant case in which issue No. 1 referred is "whether the action of the management of M/s. Fabril Gasosa having their factory at Borim, Ponda, Goa, in closing down the said factory w.e.f. 1-6-2001 is legal and justified" and the issue No. 2 is "If not, to what relief the Workmen are entitled to?" Thus, it is clear that this Tribunal has to determine the relief to be granted to the Workmen only if it comes to the conclusion that the closure is not legal and justified and consequently the question of determining the relief to be granted to the Workmen need not arise if it is held that the closure is legal and justified and in case it is held that the closure is illegal and unjustified, the Workmen will not be entitled to retranchment compensation, but they will be entitled to some other relief which will have to be determined. Therefore, it cannot be disputed that the question of payment of retranchment compensation would not arise in the instant case. Thus, the ratio in this case is of no assistance to Party I to prove their case.

24. Shri P. Gaonkar by relying on the judgment in the case of **Poonvasi and others (supra)** contended that Court has powers to grant compensation in case of closure of the undertaking. I have gone through this judgment and have noted that the ratio in this case indicates that breach of requirements of Section 25 FFA does not render the order of closure of an undertaking illegal and it will only render the employer liable for failure to serve the notice to pay to the Workmen wages for a period of 60 days. In this case the labour Court had held that discontinuance of service of the Workmen was

illegal and directed the employer to pay to each of the 12 Workmen token back wages @ ₹ 200/- per month from 15-1-1980 till the date of order of the labour Court i.e. 17-4-1985. In appeal before the Industrial Court, Maharashtra Bombay it was held that the closure of the establishment on 15-1-80 was genuine. It also found that no notice as contemplated by Section 25FFF (1) was given to the Workmen and it set aside the direction of the labour Court to pay back wages as above and further directed the employer to pay two month notice wages @ wages last drawn by each of the Workmen before 15-1-80 and also closure compensation and other legal dues as per Section 25FFF (1) of the Act. It was in this situation, held by the Hon'ble Bombay High Court that Industrial Court acted correctly in accordance with the law. Thus, it is clear that the facts in the above case are totally different from the facts in the instant case and therefore the ratio in the same cannot be made applicable to the instant case.

25. Now coming to the contention of Party I that retranchment/legal dues are not paid in accordance with the terms of settlement dated 12-12-97 viz a viz the admission of Party I that the factum of closure of factory is not in dispute, it is advantageous to refer to the relevant extract of Sec. 25FFF of the Act, which when quoted reads as under:

**Section 25FFF. Compensation to Workmen in case of closing down of undertakings.-** (1)

Where an undertaking is closed down for any reason whatsoever, every Workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of Section 25-F, as if the Workman had been retrenched:

Provided .....

(1-A) .....

(a) .....

(b) .....

(c) .....

(1-B) .....

(2) .....

26. The above Section 25FFF introduces a fiction in providing that in case of closure of business, the Workmen concerned are entitled to compensation as if the termination of their services was retranchment even though, in fact or in law, it is not retranchment. In other words, termination of services of the Workmen on closure is not "retranch-

ment" in the sense in which that word has been used in S. 25F of the Act. The use of expression "as if", in this provision shows almost conclusively that the meaning of "retrenchment" is restrictive and does not in terms apply to the case of a *bonafide* closure of business, as the legislature has not sought to place the closure of an undertaking on the same footing as retrenchment under S. 25F of the Act. Thus, as rightly pointed out by the Learned Advocate for Party II, the consequences of the closure cannot be the retrenchment and therefore the arguments of Shri P. Gaonkar on the above subject, merit no consideration.

27. At any rate discussion above reveals that in terms of the ratios in the judgments in the case of **Asian Paints** and in the case of **Indian Hume Pipe (both cited supra)**, the Tribunal cannot go into the question as to the motive of the employer in closing down the factory, the present reference which has been basically filed contending that closure of the factory w.e.f. 1-6-01 is illegal and unjustified since it was done to victimize the workers and the management, is not maintainable. Hence my findings.

28. *Issue No. 1:* In view of the findings on issue No. 3, this issue needs no discussion since there is no reason for this Court to go into the question on the motive of the employer in closing down the establishment. Hence the question of answering this issue does not arise.

29. *Issue No. 2:* Since Shri P. Gaonkar and other workers have admitted the factum of the closure of the establishment by Party II w.e.f. 1-6-2001 without making out a case that the closure was illegal and unjustified, this issue stands answered in the negative.

30. *Issue No. 4:* In view of discussion supra, the Workmen are therefore not entitled to any relief.

31. In the result, I pass the following.

#### ORDER

1. In view of discussion in issue No. 3, the present reference is not maintainable.
2. The Party I/Workmen are therefore not entitled to any relief.
3. No order as to costs.

Inform the Government accordingly.

Sd/-  
(B. K. Thaly),  
Presiding Officer,  
Industrial Tribunal-  
-cum-Labour Court.

#### Notification

No. 28/1/2013-Lab/17

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 15-11-2012 in reference No. IT/5/96 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

D. S. Morajkar, Under Secretary (Labour).

Porvorim, 14th January, 2013.

#### IN THE INDUSTRIAL TRIBUNAL AND LABOUR COURT GOVERNMENT OF GOA AT PANAJI-GOA

(Before Smt. Bimba K. Thaly, Presiding Officer)

Ref. No. IT/5/96

Shri Rama A. Joshi,  
Saipem, Candolim,  
Bardez-Goa.

... Workman/Party I

V/s

M/s. Fort Aguada Beach  
Resort,  
Sinquerim, Bardez-Goa.

... Employer/Party II

Shri Subhash Naik Jorge for Party I/Workman.

Adv. Shri P. J. Kamat for Party II/Employer.

#### AWARD

(Passed on 15th day of November, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of Goa by order dated 2-2-96 bearing number 28/70/95-LAB has referred the following dispute for adjudication by this Tribunal.

"(1) Whether the action of the management of M/s. Fort Aguada Beach Resort, Sinquerim, Bardez-Goa in terminating the services of Shri Rama A. Joshi, Security Guard, with effect from 7-7-94 is legal and justified.

(2) If not, to what relief the Workman is entitled?"

2. On receipt of the reference, the case was registered under No. IT/5/96 and registered A.D. notices were issued to the parties upon which Party I filed the claim statement at Exb. 3 and Party II filed the written statement at Exb. 4. Party I then filed the rejoinder at Exb. 5.

3. It is in short the case of Party I in the claim statement that he was employed as Security Guard with Party II, since the year 1980. In the year 1983 he was confirmed in the post of Security Guard. He was issued charge-sheet dated 14-6-93 levelling allegations that he had remained unauthorizedly absent for some days between 15-3-93 to 14-6-93 and was thus charged for habitual absence, late attendance, habitual neglect of work, breach of rules and instructions, refusal to accept charge-sheet/order or any other communication, sleeping on duty, poor/un-satisfactory workmanship, breach of provision under certified standing order and breach of instructions given by the superiors, amounting to misconducts under clause 21 (vi), (vii), (xiii), (xiv), (xxv), (xxx), (XLV), (XLIX) and (xxiii) of the certified standing orders of the company. It is stated that Party I filed reply to the above charge-sheet vide reply dated 14-7-93.

4. It is further the case of Party I that he was issued another charge-sheet dated 15-1-94 alleging that he had remained unauthorizedly absent during certain period and was charged for habitual absence, committing act subversive of discipline, making false, vicious or malicious or defamatory statement, committing act prejudicial to the interest of reputation of the establishment, constituting misconducts under clause 21(vi), (xii), (XLII), (XLIV) of the certified standing orders of the company. It is stated that Party I filed reply to this charge-sheet by reply dated 4-2-94.

5. It is further the case of Party I that Mr. Ulhas Raikar conducted the enquiry in both the charge-sheets and gave the findings in respect of charge-sheet dated 14-6-93 on 9-3-94 and charge-sheet dated 15-1-94 on 25-4-94. It is stated that Party II by letter dated 7-7-94 dismissed Party I with immediate effect and aggrieved by this decision Party I raised an industrial dispute with Party II. As there was no positive response the dispute was raised before Asstt. Labour Commissioner/Conciliation Officer. It is stated that the punishment of dismissal imposed, is highly unjust and disproportionate and this Court has powers u/s 11A of the Act to assess the same and, if found, unjust, set it aside and according to Party I this is a fit case for setting aside the punishment as it is extremely harsh and unjust taking into account the fourteen years of unblemished service put in by Party I. It is stated that the punishment of dismissal is malafide and by way of victimization as the Party I had complained about an official of Party II which was not liked by them. Thus Party I has prayed for reinstatement in service with full back wages and continuity of service.

6. In defence it is the case of Party II that Party I was on duty as security guard on 29-3-93 in the third shift and he was posted at the pool side. That at about 3.40 a.m. while security manager, Captain D'Silva and security Asst. Shri Navnath Naik went on patrolling around they found Party I sleeping with his head on the table. Party I was then issued a show cause notice dated 31-3-93 but he refused to accept the same. It is stated by Party II that Party I had remained absent on the dates stated in the charge-sheet without leave or permission and on 21-4-93 Party I sent a message with his colleague that he was unable to attend duty and on the same day at 17.50 hrs. the department head, while on his way to Taj Holiday Village saw the Party I serving tea to his customers at his stall situated opposite Taj Holiday Village. It is stated that Party I refused to accept the show cause notice issued to him. It is further stated that the acts of Party I are in contravention of clause 10 of his appointment letter and hence he was issued charge-sheet for the acts of misconduct stated in the show cause notice dated 30-4-93 so also for his habitual absence for the period from March, 1993 to 13-6-93.

7. It is further the case of Party II that while the enquiry in respect of the said charge-sheet was in progress, Party I continued to remain absent and as such, he was issued show cause notice dated 20-12-93 for his absence from 29-9-93 to 20-10-93. That in his reply dated 28-10-93 Party I made serious allegations against Captain J. D'Silva which allegations were not true. It is stated that Party I was directed to report to work immediately and accordingly he reported to work on 1-11-93 but again remained absent from 11-12-93 to 16-12-93. That Party I was issued show cause notice dated 16-12-93 and in reply to it Party I again made serious allegations against his superiors and again remained absent on the dates specified in the charge-sheet. Thus, the charge-sheet dated 15-1-94 was issued to Party I for committing the said acts of misconduct which are specifically stated in the charge-sheet. It is stated that the enquiry officer Shri Ulhas Raikar had given opportunity to Party I to be represented by defence representative of his choice and to cross-examine the management witness. It is stated that when the matter was adjourned for recording the evidence of Party I, the said Party I filed application for recalling one of the management witnesses for further cross-examination. That the enquiry officer rejected the request as Party I had failed to disclose the reasons for recalling the said witness. Due to this, Party I and his representatives left the enquiry

hall and failed to adduce any evidence. That in such circumstances, the enquiry officer was compelled to close the proceedings. It is stated that the charges levelled against Party I are of serious nature and that the punishment imposed on Party I is just and proper.

8. Following issues were framed by this Court.

1. Whether the Party I proves that the domestic enquiry held against him is not fair, proper and impartial?
2. Whether the charges of misconduct levelled against the Party I are proved to the satisfaction of this Tribunal by acceptable evidence?
3. Whether Party I proves that the termination of his services by the Party II is malafide and by way of victimization?
4. Whether the Party I proves that the termination of his services by the Party II w.e.f. 7-7-94 is illegal and unjustified?
5. Whether the Party I is entitled to any relief?
6. What Award?

9. Issue No. 1 and 2 were treated as preliminary issues and by order dated 7-7-09 issue No. 1 was answered in the negative and the issue No. 2 was answered in the positive.

10. In the course of evidence on issue Nos. 3, 4 and 5, Party I examined himself and closed his case whereas Party II examined one Shri Tukaram Machiv as its witness and closed the case.

11. Heard Lnd. Representative Shri Subhash Naik George for Party I and Lnd. Adv. Shri P. J. Kamat for Party II. Both the parties have also filed written submissions which are at Exb. 21 and 22 respectively.

12. In his arguments representative of Party I submitted that as per the certified standing orders of Party II dismissal is not the only punishment for the acts of misconducts committed by Party I. He also stated that this Court has u/s 11-A of the Act, powers to set aside the punishment imposed and according to him sleeping on duty for one day does not invite capital punishment. In support of his submissions he relied on the judgments in the cases of **Nantu Rajan Paul v/s Steel Authority of India Ltd. and others 2010 STPL (web) 47 SC**, in **Puran Chand v/s H.P. Tourism. Department 2010 STPL (web) 609 HP** and in **Shri Bhagwan Lal Arya v/s Commissioner of Police Delhi 2004 (94) SCC 560**.

13. On the other hand Learned Advocate for Party II by inviting my attention to the order dated 7-7-09 passed on the preliminary issues stated that this Court has already come to the conclusion that the domestic enquiry held against Party II is fair, proper and impartial and that the charges of misconduct levelled against Party I are proved to the satisfaction of the Tribunal by acceptable evidence. Therefore according to him what Party I has to prove is that the punishment imposed, is disproportionate to the acts of misconduct. By inviting my attention to Exb. 19 colly, he stated that these notices/warning letters throw light on the past conduct of Party I. In support of his submissions that the punishment imposed is proportionate to the acts of misconduct, he relied on the judgment in the case of **State of U.P. and others v/s Rama Kant Yadav 2002 III CLR 970**, in **Delhi Transport Corporation v/s Sardar Singh 2004 III CLR 289**, **L. & T. Komatsu Ltd. v/s N. Udayakumar 2008 I CLR 978** and in **Pandurang Vithal Kevne v/s Bharat Sanchar Nigam Ltd., 2010 I CLR 170**.

14. I have gone through the records of the case and have duly considered the submissions made by both the parties on issue Nos. 3, 4 and 5. My findings on issue Nos. 3, 4 and 5 are as under:

Issue No. 3 ..... In the negative.

Issue No. 4 ..... In the negative.

Issue No. 5 ..... In the negative.

#### REASONS

15. *Issue No. 2:* In order to prove this issue, it is, for Party I to establish that the action of Party II in terminating his services is malafide and by way of victimization. It is the pleading of Party I in the claim statement that he had complained about an official of Party II, which was not liked by Party II and therefore the punishment of dismissal has been imposed malafidely and by way of victimization. In his evidence on this issue Party I is totally silent on the aspect of malafide intention and victimization on the part of Party II. Nevertheless, merely because of the contention of Party I that the enquiry held against him is not fair, proper and unjust it would not be proper and justified to say that the action of Party II in terminating the services of Party I is malafide and by way of victimization. Reference is made to the judgment in the case of **Tata Infomedia Limited v/s Tata Press Employees' Union and another 2005 (3) Mh. L. J.** in which it is observed that once the charge of misconduct is established, the allegation of victimization, as the Supreme Court has held in **Bharat Forge Co. Ltd. v/s Uttam Manohar Nakate**



(2005) 2 SCC 489, would lose its significance particularly, in the absence of any cogent evidence in regard to victimization. It is therefore clear that in order to establish that the action of Party II in terminating the services of Party I is malafide and by way of victimization, Party I ought to have led convincing evidence on the said subject. Being so, Party I has failed to prove this issue. Hence, the same is answered in the negative.

16. *Issue No. 4:* It is the averment of Party I in the claim statement that on completion of both the enquiries ex-parte and findings given by enquiry officer, the Party II vide letter dated 8-6-94 issued to Party I a show cause notice asking as to why the punishment of dismissal should not be imposed on him and on 7-7-94 Party II vide their letter of the same date dismissed Party I with immediate effect without awaiting for his reply to the show cause and levelling fresh allegations against Party I regarding which no inquiry was held. Party I has produced the copy of letter dated 8-6-94 at Exb. W-I and copy of letter dated 7-7-94 at Exb. W-2.

17. Perusal of Exb. W-1 makes it clear that vide this letter the management has proposed to award, the Party I punishment of dismissal for his services and accordingly he was called upon to show cause as to why the punishment proposed, should not be awarded to him. It is however apparent that Party I did not show cause to the said letter dated 8-6-94 and this fact is apparent from the letter dated 7-7-94 wherein it is so mentioned. It is also stated in this letter that Party I continued to remain absent unauthorizedly causing great hardship and inconvenience and as he failed to show cause against the proposed punishment and considering his continued absence even after the enquiry, the management dismissed him from services.

18. It is therefore clear from the above evidence that the management dismissed the Party I from services on account of misconducts levelled in the charge-sheet dated 14-6-93, under clauses 21 (vi), (xiii), (xiv), (xxv), (xxx), (XLIX) and (xxiii) and in the charge-sheet dated 15-1-94 under clause 21(vi), (xii), (XLII) and (XLIV) and not for his act of continuing to remain absent, even after the enquiry.

19. Be that as it may, in his cross-examination the Workman was shown warning letter dated 28-3-83 issued to him for having found sleeping when on night duty on 27-3-83, warning letter dated 20-12-84 for not handing over a T-shirt found by him at pool side, to the lost and found section of house keeping department, warning letter dated

22-6-85 for sleeping on night duty on 21-6-85, warning letter dated 18-12-85 to be careful and maintain discipline, notice dated 18-3-86 for remaining unauthorizedly absent from 20-2-86, notice dated 29-5-86 for having been found at Gagreshwar Temple between 8th and 12th of March, 1986 during duty hours, warning letter dated 29-9-86 for maintaining discipline and warning letter dated 29-3-93 for remaining unauthorizedly absent from 13-2-93 to 12-3-93. All the above warning letters/notices have been taken on record and marked Exb. 19 colly. The Workman has however denied his signatures on Exb. 19 colly.

20. Shri Tukaram Machiv who has stated that he has been working with Party II for the last 26 years and who knows Party I has supported the case of Party II, set up in the written statement and has stated that he can identify the signatures of Party I, since Party I had signed various documents in his presence in the course of his employment with Party II. Upon being shown the documents at Exb. 19 colly, he has identified the signatures of Party I on the same.

21. In his cross-examination it is not disputed that such notices/warning letters were issued to Party I but what appears from the tenor of cross-examination of Shri Tukaram Machiv is that no departmental enquiry was held before issuing the documents at Exb. 19 colly. Nonetheless, Shri Tukaram Machiv has denied that in all the warning letters in Exb. 19 colly the charges levelled are false and are not proved. It is therefore clear from the nature of the above cross-examination that Party I does not dispute that warning letters/notices at Exb. 19 colly were issued to him. Thus, to my mind, this by itself throws light on the past conduct of Party I.

22. Though learned representative of Party I has relied on the judgments in the cases of **Nanthu Rajan, Puran Chand and Shri Bhagwan Lal** (all cited supra) reading of the same makes it clear that the facts in these cases are totally different from the facts in the instant case and therefore the ratios in the same are not at all applicable to the instant case. On the other hand, the ratios on the judgments relied upon by Learned Advocate for Party II squarely apply to the case at hand.

23. In the case of **State of U.P. (supra)** a Police constable on guard duty of armoury was dismissed from service after enquiry, for misconduct for sleeping while on duty and though Hon'ble High Court interfered with the punishment after holding

the same to be disproportionate, the Hon'ble Apex Court while setting aside the order of the High Court observed that the charges against the respondent Police constable are quite grave and it is not proper for High Court to have interfered with punishment.

24. In the case of **Delhi Transport Corporation (supra)** it is observed as under:

"When an employee absents himself from duty, even without sanctioned leave for very long period, it prima facie shows lack of interest in work..."

It is also observed in the above judgment as under "... When an employee absents himself from duty without sanctioned leave the authority can, on the basis of record, come to a conclusion about the employee being habitually negligent in duties and an exhibited lack of interest in the employers work.. ..."

25. In the case of **L & T Komatsu (supra)** a Workman was dismissed for habitual absenteeism and Labour Court though had held that the misconduct was proved, by exercising its discretionary powers, passed award for reinstatement with continuity in service, but without back wages. The writ appeal filed by the management was also dismissed by the High Court but the Apex Court in Appeal held that habitual absenteeism is gross violation of discipline and that the Labour Court and High Court was not justified in directing reinstatement, by interfering in the order of termination.

26. In the case of **Pandurang Vithal Kevne (supra)** the Hon'ble High Court of Bombay has held that unauthorized habitual absence is a misconduct which exhibits responsibility and lack of interest in work.

27. No doubt, Section 11-A of the Act gives power to this Court to give appropriate relief in case of dismissal or discharge of Workman but it cannot be lost sight of the fact that such discretion has to be used judiciously.

28. In the case of **Ramakant Misra v/s State of U.P. and Others 1982 ILLJ 472**, the Apex Court while specifying the purpose of introduction of Section 11 A has held that "*It is now crystal clear that the labour Court has the jurisdiction and power to substitute its measure of punishment in place of the managerial wisdom once it is satisfied that the order of discharge or dismissal was not justified in the facts and circumstances of the case. ... Before we can exercise the discretion conferred by S. 11-A, the*

*Court has to be satisfied that the order of discharge or dismissal was not justified in the facts and circumstances of the case. These words indicate that even though misconduct is proved and a penalty has to be imposed, the extreme penalty of dismissal or discharge was not justified in the facts and circumstances of the case meaning thereby that the punishment was either disproportionately heavy or excessive. As stated earlier, it is a well recognized principle of jurisprudence which permits penalty to be imposed for misconduct that the penalty must be commensurate with the gravity of the offence charged*".

29. In the case of **Mahindra & Mahindra Ltd. v/s N.B. Nawade 2005-I CLR 803** a three Judge Bench of the Apex Court has held that "*It is no doubt true that after introduction of Section 11-A in the Industrial Disputes Act, certain amount of discretion is vested with the Labour Court/Industrial Tribunal in interfering with the quantum of punishment awarded by the Management where the concerned Workman is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this Court referred to hereinabove and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion which can be exercised under Section 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the Court, or the existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the Workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11-A of the Act and reduce the punishment*".

30. In the light of above observations viz-a-viz the ratios in the judgments in the cases of **State of U.P., Delhi Transport Corporation, L. & T. Komatsu, Pandurang Vithal Kevne (all cited supra)** it becomes clear that the punishment of termination of services of Party I, by Party II cannot be called disproportionate to the gravity of misconduct so as to disturb the conscience of the Court nor is there existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the Workman which could persuade this Court to reduce the punishment. Thus, Section 11-A of the Act cannot be pressed into services, in the circumstances pointed out above. Hence my findings.

31. *Issue No. 5:* In view of discussion in issues No. 3 and 4 above, Party I is not entitled to any relief.

32. Hence the following.

#### ORDER

1. It is hereby held that the action of the management of M/s. Fort Aguada Beach Resort, Sinquerim, Bardez-Goa in terminating the services of Shri Rama A. Joshi, Security Guard, with effect from 7-7-94 is legal and justified.
2. The Workman, Shri Rama A. Joshi is therefore not entitled to any relief.
3. No order as to costs.

Inform the Government accordingly.

Sd/-  
(B. K. Thaly),  
Presiding Officer,  
Industrial Tribunal-  
-cum-Labour Court.

#### Notification

No. 28/1/2013-Lab/19

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 28-11-2012 in reference No. IT/17/03 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

D. S. Morajkar, Under Secretary (Labour).

Porvorim, 14th January, 2013.

IN THE INDUSTRIAL TRIBUNAL AND  
LABOUR COURT  
GOVERNMENT OF GOA AT PANAJI  
(Before Smt. Bimba K. Thaly, Presiding Officer)  
Ref. No. IT/17/03

1. Shri Umesh Borkar,  
H. No. 502, Aquem Alto,  
Near Cine Vishant, Margao.
2. Shri Datta Shirodkar,  
H. No. 205, Zariwada,  
Davorlim, Goa,  
Navelim-Goa. ... Workmen/Party I  
V/s

M/s. Pickvel Traders,  
Vit-rose Mansion, 2nd Floor,  
Flat No. 5,  
Margao, Goa.

... Employer/Party II

Party I/Workmen represented by Shri P. Gaonkar.

Party II/Employer represented by Adv. Shri G. B. Kamat.

#### AWARD

(Passed on 28th day of November, 2012)

In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (for short 'The Act'), the Government of Goa by order dated 21-3-03 bearing No. 28/6/2003-LAB/992, has referred the following dispute for adjudication.

- "(1) Whether the action of the management of M/s. Pickvel Traders, Margao, in refusing employment to S/Shri Datta Shirodkar, Driver and Umesh Borkar, Loader, with effect from 6-6-2002, is legal and justified?
- (2) If not what relief the Workpersons are entitled to?"

2. Upon receipt of the reference, IT/17/03 was registered. Notices were issued to both the parties under registered A/D post upon which both the parties were served. Party I filed the statement of claim at Exb. 3. Party II filed the written statement at Exb. 5 rejoinder was filed by Party I at Exb. 6.

3. In the statement of claim it is in short the case of Party I that Party II is an industrial establishment, engaged in trading of various products in the market. That the Workman Shri Umesh Borkar joined on 2-1-91 as loader and the Workman, Shri Datta Shirodkar joined in the year 1986, as a driver, That on 5-6-02, Party II informed both the above Workmen that they should not report for duty from 6-6-2002 and from this date Party I did not allow them to resume their duty, thereby refusing the employment. That thereafter the Workmen raised demands for reinstatement vide letter dated 13-6-2002 but the employer did not allow them to resume their duty and hence they raised an industrial dispute before the Deputy Labour Commissioner, South Goa, Margao vide their letter dated 25-6-02. That the Deputy Labour Commissioner called the parties for conciliation and during the conciliation proceedings as Party II raised false defence, at the instance of Party I, the conciliation officer gave letter dated 14-10-02 directing Party II to allow the Workmen to resume duties and accordingly the Workmen reported for work on 18-10-02 but the employer again refused

them to resume the duty. That by their letter dated 21-10-02 the Workmen informed the above fact to the Deputy Labour Commissioner and accordingly conciliation meeting was held on 26-11-02 where Party II remained absent and the matter ended in failure. It is stated that before refusal of employment, Party II did not offer notice pay, retrenchment compensation and also did not conduct the enquiry and thus no principles of natural justice were followed before refusal of employment to them. It is stated that after their termination, the Workmen are unemployed. The Party I has therefore prayed to declare the termination of these workers as illegal, unjustified and bad in law and to reinstate both the workers with full back wages and continuity of service.

4. In the written statement Party II has denied the case set up by Party I and has stated that the Workmen were told not to come for work for a period of four months from 5-6-02 due to non-availability of work and were further told that they were at liberty to work elsewhere during the said period and rejoin the duties on and from 6-10-02. It is stated that the trading activities of the employer are seasonal in nature and are carried from October to May every year and the contract of service is kept alive by treating the said period of four months as continuous service for the purpose of length of service. It is stated that this procedure has been followed every year since starting of the trading activities of Party II and all the workers including the above Workmen were aware of the said arrangement and the same was acceptable to all the workers. It is stated that on 18-10-02, when the workmen reported for joining the duties, they were asked to join their respective duties however the Workmen started insisting that they should be paid their wages from June, 2002 till date in the first instance and only thereafter they would join their duties which demand was refused by their employer and the Workmen left the place of work. It is stated that since there was no refusal of employment to the Workmen, the question of payment of notice pay or retrenchment compensation or holding or the enquiry, did not arise. Thus, amongst above and other grounds, Party II has prayed to reject the reference.

5. In the rejoinder Party I has denied the averments made by Party II in their written statement.

6. Based on the above averments, issues at Exb. 7 were framed on 11-9-03.

7. In the course of evidence, Workmen Shri Umesh Borkar examined himself as witness No. 1 for

Party I and though affidavit in evidence of Shri Datta Shirodkar was placed on record, this affidavit was not tendered in evidence by the said Workman and even this Workman was not available for cross-examination and therefore the contents of the affidavit in evidence of Workman, Shri Datta Shirodkar, need to be discarded. Party II did not lead evidence in defence.

8. The representatives of both the parties i.e. Party I and Party II filed written submissions which are at Exb. 13 and Exb. 11 respectively.

9. I have gone through the records of the case and have duly considered the submissions filed by both the learned representatives.

10. I am reproducing herewith the issues alongwith their findings and reasons thereof.

Sr. No.	Issues	Findings
1	2	3
1.	Whether the Workmen/ /Party I prove that they were refused employment by Party II from 6-6-2002?	In the negative.
2.	Whether the Workmen/ /Party I prove that the action of the Party II in refusing employment to them from 6-6-2002 is illegal and unjustified?	Does not arise.
3	Whether the Party II prove that their trading activities are seasonal in nature and are carried from October to May of every year?	In the negative.
4.	Whether the Party II proves that the services of the Workmen are kept alive for four months from June every year and the said period is treated as continuous service and the Workmen/Party I were told to rejoin the services from 6-10-2002	Partly in the positive.
5.	Whether the Party II proves that the Workmen/Party I after reporting for duties on 18-10-02 refused to join their duties unless they are paid their wages from June, 2002 and left the place of work?	In the positive.



1	2	3
6. Whether the Workmen/Party I are entitled to any relief?	In the negative.	
7. What Award?	As per order below.	

## REASONS

11. *Issue Nos. 1, 2 & 5:* All these issues are interconnected and hence are answered together to avoid the repetition of facts.

12. It is stated by the Workmen Shri Umesh Borkar that he was working with Party II as loader from January, 1991 and he worked as such, continuously till 5-6-02. He has stated that on 5-6-02, he was paid the wages for the month of May, 2002 and he was then told by Mr. Cajetan Marchon, the proprietor of Party II that he should not report for duty from 6-6-02. He has stated that thereafter by letter dated 13-6-02, he requested the Party II to reinstate him in service with full back wages and he has produced the copy of the said letter at Exb. W-1. He has stated that Party II did not reply this letter and thereafter he made representation dated 25-6-02 (Exb. W-2) to the Deputy Labour Commissioner, Margao requesting the Party II to allow him to report for duty with full back wages as refusal of employment was illegal. He has stated that Party II did not participate in the conciliation proceedings held by the Labour Commissioner and hence it resulted in failure. He has produced the copy of the minutes of the conciliation proceedings dated 26-11-02 at Exb. W-3 and the copy of the failure report dated 31-1-03 at Exb. W-4. He has stated that the Workman, Shri Datta Shirodkar was also refused employment by Party II from 6-6-02 and that the action of Party II in refusing employment to both of them is illegal and unjustified.

13. In his cross-examination, he has made it clear that letter dated 13-6-02 (Exb. W-1) was got written by him from some third person and that he knows the contents of the said letter. He has also stated that the said letter was written as per his say. He has admitted that in Exb. W-1 it is stated that on 5-6-2002 he was told by Mr. Cajetan Marchon that he should not report for duty from 6-6-2002 for two months without wages. He has further stated that after the expiry of two months from 5-6-2002 he did not go to Party II to report for work. He has admitted that in his letter dated 25-6-02 (Exb. W-2) he did not state that Mr. Cajetan had told him not to report for work for two months from 6-6-02. He was shown a letter dated 4-10-02

and he has admitted that he wrote the same to Party II. This letter is marked as Exb. E-1. He has admitted that in this letter it is stated that Party II terminated his services w.e.f. 1-6-02 but according to him it is a mistake on his part. Upon being shown a letter dated 10-10-02, the witness has admitted of having received the same which was sent to him by registered post by Party II, asking him to report for duty on or before 19-10-02 and it is marked as Exb. E-2 colly alongwith the AD card. He has stated that on receipt of this letter he reported for duty on 19-10-02 and met Mr. Cajetan but he was not allowed to report for work. He has also admitted that he did not write any letter to Mr. Cajetan explaining that he had reported for work on 19-10-2002 but was not allowed to report by Mr. Cajetan. He has denied the suggestion that he went to Party II on 18-10-02 and told Mr. Cajetan that he does not want to report for work unless his wages for the period from June, 2002 till 18-10-02 were paid. He has also denied the suggestion that Mr. Cajetan did not agree to his above demand and left the place. He has admitted that subsequently Party II had given offer to him and Shri Datta Shirodkar in the first week of October, 2003 and accordingly both of them reported for work on 6-10-03 and were allotted the work. He has stated that he worked with Party II for about one and half month from 6-10-03 and thereafter did not report and that Mr. Datta Shirodkar continues to work with Party II from 6-10-03 till date. He has denied the suggestion that the business of Party II runs only from October to May and that Party II does not employ the workers during the period from June to September because there is not work during that period.

14. It is therefore clear from the above evidence that though the Workmen, Shri Umesh Borkar claims that both of them were refused employment w.e.f. 6-6-02, in his cross-examination he has admitted that vide Exb. W-1 he was told not to report for work for two months without wages. It may be mentioned here that the Workman, Shri Umesh Borkar got the letter at Exb. W-1 written from a third person and that he was aware of its contents. Nonetheless, in his complaint dated 25-6-02 at Exb. W-2, to Deputy Labour Commissioner, Margao the Workman, Shri Umesh Borkar has not made mention of the above fact and this is precisely to make it appear that the refusal was permanent and hence it amounted to termination of his services. The very fact that vide letter at Exb. W-1 the Workman, Shri Umesh Borkar was told not to come for work only for a period of two months, makes it clear that his services were not

terminated by Party II as otherwise Party II would not tell the Workman not to come for work only for the period of two months. That apart, the Workman, Shri Umesh Borkar has admitted that after the expiry of above two months, he did not report for duty. Thus, this aspect also weighs against Party I for disbelieving the case of Party I that their services were terminated by Party I w.e.f. 6-6-02. Even for that matter, as rightly pointed out by Learned Advocate for Party II the justification of the action of the management in asking the Workman not to report for duties for a period of two months cannot be gone into in the present reference. Thus, the above discussion makes me believe the case projected by Party II that the contract of service was thus kept alive and the said period of absence was to be treated as continuous service.

15. Another factor that makes me disbelieve the case set up by Party I is that in the complaint dated 4-10-02 at Exb. E-1, made by the Workman, Shri Umesh Borkar to Party II, with copy to Dy. Labour Commissioner, Borda, Margao it is stated that his services have been illegally terminated by Party II w.e.f. 1-6-02 which in fact is not at all the case of Party I. Though Workman, Shri Umesh Borkar has tried to explain the above discrepancy by saying that it is a mistake, the same cannot be believed, as in normal circumstances Party I would have averred in the statement of claim about he making such complaint by further explaining that the date 1-6-02 was wrongly mentioned in the said complaint. Thus, the above fact also makes me disbelieve the case set up by Party I.

16. It is pertinent to note that Party II replied the letter at Exb. E-1 vide their letter dated 10-10-02 at Exb. E-2 colly there by directing both the Workmen to report for duties forthwith and in any event on or before 19-10-02 and in this context the Workman, Shri Umesh Borkar has stated that accordingly he reported for duties on 19-10-02 but Mr. Cajitan did not allow him to report for work and told him to go. Further, the statement of Workman, Shri Umesh Borkar that he did not write any letter to Mr. Cajitan explaining that he had reported for work on 19-10-02 but was not allowed to report, makes it clear beyond doubt that the statement made by this Workmen about reporting for duty on 19-10-02 and the employer refusing him to resume duty, cannot be believed,

17. Be that as it may, it is also the case of Party I that vide their letter dated 21-10-02 they informed the Deputy Labour Commissioner Margao that they had gone to report for duty on 18-10-02

but were not allowed to resume the duty. However it is seen that Party I has not produced the copy of the said letter dated 21-10-02 before the Court and even for this reason the contention of Party I that pursuant to said letter dated 21-10-02 they have informed the above fact to the Deputy Labour Commissioner, Margao, cannot be believed.

18. It is pertinent to note that in his claim statement the Workman has averred that despite their demand letter dated 13-6-02 (Exb. W-1), Party II did not allow them to resume the duty, upon which he raised an industrial dispute and the Deputy Labour Commissioner called both the parties for conciliation in which Party II took false defence and therefore at the request of Party I, conciliation officer gave a letter dated 14-10-02, directing Party II to allow Party I to resume duties and pursuant to this, the Workman reported for work on 18-10-02 but Party II refused to allow them to resume the work. It may be mentioned here that Party I has not produced the copy the said letter dated 14-10-02 and therefore the contention of Party I on the above subject and more particularly of Party II refusing Party I to resume duty on 18-10-02, pursuant to letter dated 14-10-02, cannot be believed.

19. Nevertheless, it is the specific case of Party II that on 18-10-02 the Workmen reported for joining their duties and they were asked to join their respective duties but the Workmen insisted that they should be paid their wages from June, 2002 till date, in the first instance and only thereafter they would join the duties but the employer refused the such demand and the Workmen left the place of the work. It may be mentioned here that in the absence of Party I producing copy of letter dated 14-10-02 as well as copy of letter dated 21-10-02, the case projected by Party I by referring to above letters cannot at all be accepted and consequently the case set up by Party II about the Workmen reporting for duties on 18-10-02 but making demands of payments of wages from June, 2002 till the date in the first instance, appears to be more probable.

20. Even for that matter, from the admission of Shri Umesh Borkar that both the Workmen rejoined Party II w.e.f. 6-10-03 and that he worked with Party II for about one and half months from 6-10-03 and thereafter left the services and that the Workmen, Shri Datta Shirodkar continued to work with Party II makes it clear beyond doubt that the claim of the Workmen for reinstatement with full back wages and continuity in service does not lie and this is more because the above fact, as rightly

pointed out by Learned Advocate for Party II was not stated by the Workman, Shri Umesh Borkar in his examination in chief recorded on 17-2-05 but has been stated only in his cross-examination recorded on 11-4-05. Thus, it is clear that an attempt has been made by Shri Umesh Borkar to conceal the above crucial material fact, from the Court. Hence, my findings on issue Nos. 1, 2 and 5.

21. *Issue No. 3:* Party II has not led positive evidence in proof of this issue and hence the same is answered in the negative.

22. *Issue No. 4:* It is the case of Party II as pleaded in para 2 of the written statement that the Workmen were told not to come for work for a period of four months from 05-06-2002 and were further told that they were at liberty to work elsewhere during the said period and rejoin their respective duties on and from 06-10-2002. No convincing evidence has been brought on record by Party II to substantiate their above case and more particularly that the Workmen were told to rejoin their respective duties on and from 06-10-2002. However, it is apparent from the letter dated 13-6-02 at Exb. W-1 that the Workman, Shri Umesh Borkar was told that he should not report for duty from 6-6-02 for two months without wages and it is further apparent from the letter dated 10-10-02 at Exb. E-2 colly that both the Workmen were directed to report for duties forthwith and in any event on or before 19-10-02. Thus, as discussed supra, it becomes clear that the Workmen were told not to come for work for some period, may be for two/four months probably on account of non-availability of work and this fact intum makes it clear that the services of the Workmen were kept alive for the above period from June every year and the said period is treated as continuous service. Hence my findings.

23. I have already pointed out above that the contents of the affidavit in evidence of the Workman, Shri Datta Shirodkar need to be discarded for the reasons mentioned above and therefore no relief of any nature could be granted to the Workman, Shri Datta Shirodkar.

24. *Issue No. 6:* In view of discussion supra, the Workmen/Party I are not entitled to any relief.

25. In the result, I pass the following.

#### ORDER

1. Since Party I/Workmen S/Shri Datta Shirodkar, Driver and Umesh Borkar, Loader have failed to prove that the management of M/s. Pickvel Traders, Margao, refused employment to

them, with effect from 6-6-2002, the present reference does not survive.

2. The Party I/Workmen S/Shri Datta Shirodkar, Driver and Umesh Borkar, Loader are therefore not entitled to any relief.

3. No order as to costs.

Inform the Government accordingly.

Sd/-  
(B. K. Thaly),  
Presiding Officer,  
Industrial Tribunal-  
cum-Labour Court.

### Department of Personnel

#### Order

File No. 13/1/2013-PER

Government of Goa is pleased to grant extension in service to Dr. I. R. Miller Mukherjee, Bio-Chemist, Institute of Psychiatry and Human Behaviour, Bambolim, Goa beyond the date of her superannuation for a period of two years with effect from 01-02-2013 to 31-01-2015.

The extension is subject to termination without assigning any reasons at any time during the period of extension.

By order and in the name of the Governor of Goa.

*N. P. Singnapurker*, Under Secretary (Personnel-II).

Porvorim, 29th January, 2013.

#### Notification

File No. 7/30/2012-PER

In exercise of the powers conferred by clause (1-A) of Article 316 of the Constitution of India, read with regulation 5 of the Goa Public Service Commission (Members and Staff) (Conditions of Service) Regulations, 1988, the Governor of Goa is pleased to appoint Dr. M. M. Sangodkar, Member, Goa Public Service Commission, to perform the duties of the office of the Chairman of the Goa Public Service Commission, until some person appointed under clause (1) of Article 316 to the vacant office enters on the duties thereof.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Addl. Secretary (Personnel).

Porvorim, 25th January, 2013.

**Order**

File No. 13/2/2013-PER

Government of Goa is pleased to grant extension of service to Shri Surendra Sharma, Assistant Engineer, S.D.II, W.D. XVIII (Roads), Public Works Department, Ponda, beyond the date of his superannuation for a period of one year with effect from 01-02 2013 to 31-01-2014.

The extension is subject to termination without assigning any reasons at any time during the period of extension.

By order and in the name of the Governor of Goa.

*N. P. Singnapurker*, Under Secretary (Personnel-II).

Porvorim, 30th January, 2013.

**Order**

File No. 6/4/91-PER(Part III)

The Governor of Goa is pleased to promote on ad hoc basis, the following Officers in Junior Scale of Goa Civil Service to Senior Scale of the same Service in the Pay Band of ₹ 15,600-39,100 with Grade Pay of ₹ 6,600/- with immediate effect, as shown below:

1. Smt. Madhura V. Naik.
2. Shri Vikas S. N. Gaunekar.
3. Smt. Deepali D. Naik.
4. Shri Raju V. Gawas.
5. Shri Anthony J. D'Souza.
6. Smt. Sandhya S. Kamat.

2. The above appointment shall be for a period of one year in the first instance.

3. The above ad hoc appointment will not bestow on the promoted Officers any claim for regular appointment and the service rendered on ad hoc basis in the Grade will not count for the purpose of seniority in that grade or for eligibility for promotion to the next higher grade.

4. The posting Order of above Officers shall be issued separately.

By order and in the name of the Governor of Goa.

Sd/- *Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 4th Decemebr, 2012.

**Order**

File No. 2/7/76-PER (Vol. III) Part

In partial modification of order of even number dated 6-10-2000, the following Departmental Selection Committee for the post of "Photographer" Group 'C' post in the Directorate of Archives and Archaeology is constituted as shown below:

- |                          |   |           |
|--------------------------|---|-----------|
| 1. Archivist General     | — | Chairman. |
| 2. Archivist publication | — | Member.   |
| 3. Assistant Chemist     | — | Member.   |

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 10th January, 2013.

**Corrigendum**

File No. 15/7/2003-PER

Read: Order No. 15/7/2003-PER dated 04-10-2012.

Para 2 of the order dated 04-10-2012, read in preamble shall be substituted to read as follows:

"2. The following two Officers, amongst others who appeared for the said examinations, have failed in one or more papers as indicated against their names and hence declared as "FAILED".

Sr. No.	Name of the Officer	Failed in papers
1.	Shri Vishal C. Kundaikar	IV & V.
2.	Shri Amul Shrikant Gaunker	V.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 31st January, 2013.

**Department of Public Health****Order**

No. 4/23/2002-II/PHD/Part 1

On the recommendation of the Goa Public Service Commission conveyed vide letter No. COM/II/11/30(2)/2011/296 dated 17-01-2013, Government is pleased to promote Dr. (Mrs.) Savita Maria Teresa D. G. Pinto Santana Da Silva, Lecturer



in Medicine to the post of Assistant Professor in Medicine in Goa Medical College, Bambolim-Goa on regular basis in the Pay Band—3, ₹ 15,600-39,100 with Grade pay of ₹ 6,600/- and other allowances to be fixed as per rules, with immediate effect.

The promotion is made against the vacancy occurred due to promotion of Dr. Carmen Mendes Pereira, Assistant Professor to the post of Associate Professor in Medicine in Goa Medical College and Hospital vide Order No. 4/23/2002-II/PHD/Part 1 dated 17-12-2012.

By order and in the name of the Governor of Goa.

*Harish Adconkar*, Under Secretary (Health).  
Porvorim, 30th January, 2013.

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**Order**

No. 4/20/2002-II/PHD/PF.

On the recommendation of the Goa Public Service Commission conveyed vide letter No. COM/II/11/30(6)/12/294 dated 17-01-2013, Government is pleased to promote Dr. (Mrs.) Chitra Y. Dhume, Associate Professor in Biochemistry to the post of Professor in Biochemistry in Goa Medical College, Bambolim-Goa on regular basis in the pay scale Pay Band—4, ₹ 37,400-67,000+Grade Pay of ₹ 8,700/- and other allowances to be fixed as per rules, with immediate effect.

The promotion is made against the post of Professor which fell vacant due to the retirement on superannuation of Dr. (Mrs.) Asha A. Naik w.e.f. 31-08-2012.

By order and in the name of the Governor of Goa.

*Harish Adconkar*, Under Secretary (Health).  
Porvorim, 30th January, 2013.

◆◆◆  
**Department of Revenue**

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**Order**

No. 22/13/2009-RD

Whereas, the Government of Goa, vide Notification No. 22/13/2009-RD dated 23-08-2010, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in

the Official Gazette, Series II No. 23, dated 02-09-2010, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for additional land at Murda, Mercas in continuation of Goa Bazar (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 22/13/2009-RD dated 06-09-2011, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 23 dated 08-09-2011, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

*Ashutosh Apte*, Under Secretary (Revenue-I).  
Porvorim, 29th January, 2013.

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**Order**

No. 23/8/2011-RD

Whereas, the Government of Goa, vide Notification No. 23/8/2011-RD dated 20-04-2011, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 4, dated 28-04-2011, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for widening and improvement of S.H. 1 from Assonora Bridge and Bicholim Municipal Council Limit (kms. 9.8 to 17.600) in the length of 7.80 kms. in Bicholim Constituency (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa considered the report made by the Collector under

sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/8/2011-RD dated 11-05-2012, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 8 dated 24-05-2012, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 28th January, 2013.

#### Notification

No. 23/5/2013-RD

Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose, viz. Land Acquisition for construction of road at Tontem Morod in V. P. Cansaulim, Arossim, Cuelim in Cortalim Constituency.

Now, therefore, the Government hereby notifies under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this notification, will under clause (seventh) of Section 24 of the said Act be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of Section 3 of the said Act, the Deputy Collector/SDO, Mormugao, Vasco-da-Gama, Goa, to perform the functions of a Collector, under the said Act in respect of the said land.

5. The Government also authorizes under sub-section (2) of Section 4 of the said Act, the following Officers to do the acts, specified therein in respect of the said land.

1. The Collector, South Goa District, Margao-Goa.
2. The Deputy Collector/SDO, Mormugao, Vasco-da-Gama, Goa.
3. The Executive Engineer, W.D. VI (R), PWD, Fatroda, Margao-Goa.
4. The Director of Settlement and Land Records, Panaji-Goa.

6. A rough plan of the said land is available for inspection in the Office of the Deputy Collector/SDO, Mormugao, Vasco-da-Gama, Goa for a period of 30 days from the date of publication of this Notification in the Official Gazette.

#### SCHEDULE

(Description of the said land)

*Taluka:* Mormugao      *Village:* Cansaulim/Arossim

Survey No./ Sub-Div. No.	Names of the persons believed to be interested in land	Approx. area in sq. mts.
1	2	3
27/3	O: Comunidade of Cansaulim.	10
30/2	O: Felix A. Fernandes. Esilda Gomes. Antonio Savio Alex Estanislau Fernandes. Simon C. Fernandes. Safira Antao. Alvarinho A. Fernandes. Virginia D'Souza.	2215
30/5	O: Adelina Dias e Costa.	85
30/6	O: Minguel Santan Fernandes.	80

1	2	3
30/7	O: John Barros Pereira. Felecidade Ferrao. Levina Brigida Safia Rodrigues. Ana Fernandes. Alfred J. E. Fernandes. Wilfred Costa. Annie Jayanti Fernandes. Agnelo Caetano Barreto. Frank Joseph Martin Anita Maria D'Sa. Jose Estevan Ferrao. Estevan Ferrao alias Jose Estevan Ferrao. Anthony Ferrao. Savio Ferrao.	450
30/7-A	O: Nelson Felicio Jaques.	15
31/1	O: Comunidade of Cansaulim.	15
31/2	O: Stanley Barros Pereira.	1180
60/1	O: Roldao Souza.	570
60/5	O: Elton Alarico Saldanha.	465
60/8	O: Maria Irene De Silva.	35
60/9	O: Jose Lourenco Saldanha.	30
<i>Taluka:</i> Mormugao <i>Village:</i> Arossim		
22/5	O: Ida Silva e Jaques.	200
<i>Boundaries :</i>		
Village: Cansaulim/Arossim		
North: S. No. 30/2, 4 to 7, 7-A & 7-B, S. No. 60/1 & 5, Road.		
South: S. No. 30/2, 5 to 7, S. No. 60/1, 4, 7, 8 & 9.		
East : S. No. 31/1 & 2, S. No. 30/2 & 7-A, Village Boundary of Arossim.		
West : S. No. 27/3, 4 & 5, S. No. 28, S. No. 29/2 & 3, S. No. 30/2 & 7 and Nalla.		
Village: Arossim		
North: S. No. 22/5.		
South: S. No. 22/5.		
East : Road.		
West : Village Boundary of Cansaulim.		
		Total: 3350

By order and in the name of the Governor  
of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).  
Porvorim, 29th January, 2013.

**Notification**

No. 23/19/2012-RD

Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose, viz. Land Acquisition for construction of Sewerage Treatment Plant (STP) at Baga, Calangute Village of Bardez Taluka.

Now, therefore, the Government hereby notifies under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this notification, will under clause (seventh) of Section 24 of the said Act be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of Section 3 of the said Act, the Dy. Collector (L.A.), Collectorate of North Goa District, Panaji-Goa to perform the functions of a Collector, under the said Act in respect of the said land.

5. The Government also authorizes under sub-section (2) of Section 4 of the said Act, the following Officers to do the acts, specified therein in respect of the said land.

1. The Collector, North Goa District, Panaji-Goa.				1	2	3
2. The Dy. Collector (L.A.), Collectorate of North Goa District, Panaji-Goa.				301/11	O: Comunidade. T: Raghoba Harichandra Gadekar.	500
3. The Executive Engineer, W.D. XXIV (R), P.W.D., Ponda-Goa.				301/12	O: Comunidade. T: Ganesh Datta Korgaonkar.	525
4. The Director of Settlement and Land Records, Panaji-Goa.				301/13	O: Comunidade. T: Vishnu Laxman Assgaonkar.	450
6. A rough plan of the said land is available for inspection in the Office of the Dy. Collector (L.A.), Collectorate of North Goa District, Panaji-Goa for a period of 30 days from the date of publication of this Notification in the Official Gazette.				301/14	O: Comunidade. T: Raghoba Harichandra Gadekar.	450
				301/15	O: Comunidade. T: Ganesh Datta Korgaonkar.	525
				301/16	O: Comunidade. T: Laxmibai Anant Morajkar.	2875
				301/17	O: Comunidade. T: Saraswati Pandhari Vaingankar.	1375
				301/18	O: Comunidade. T: Yesubai Vsishwanath Vaingankar.	1650
				301/19	O: Comunidade. T: Laxmibai Anant Morajkar.	500
				301/20	O: Comunidade. T: Saraswati Pandhari Vaingankar.	175
				<b>Boundaries :</b>		
				North: S. No. 303/3, 8.		
				South: S. No. 1 to 19, 303/1, 2, 3, 4.		
				East : S. No. 229/6, 8, 2.		
				West : S. No. 287/2, 290/3.		
				Total: 20375		
				By order and in the name of the Governor of Goa.		
				Anju S. Kerkar, Under Secretary (Revenue-II).		
				Porvorim, 1st January, 2013.		
				<b>Notification</b>		
				No. 23/4/2013-RD		
				Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose, viz. Land Acquisition for construction of road near Rosy House in Village Panchayat St. Lawrence in St. Andre Constituency.		



Now, therefore, the Government hereby notifies under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this notification, will under clause (seventh) of Section 24 of the said Act be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of Section 3 of the said Act, the Deputy Collector/SDO, & LAO, Tiswadi, Panaji-Goa, to perform the functions of a Collector, under the said Act in respect of the said land.

5. The Government also authorizes under sub-section (2) of Section 4 of the said Act, the following Officers to do the acts, specified therein in respect of the said land.

1. The Collector, North Goa District, Panaji-Goa.
2. The Deputy Collector/SDO, & LAO, Tiswadi, Panaji, Goa.
3. The Executive Engineer, W.D. II, (R), PWD, Panaji-Goa.
4. The Director of Settlement and Land Records, Panaji-Goa.

6. A rough plan of the said land is available for inspection in the Office of the Dy. Collector/SDO, & LAO, Tiswadi-Goa for a period of 30 days from the date of publication of this Notification in the Official Gazette.

## SCHEDULE

(Description of the said land)

Taluka: Tiswadi Village: Goa-Velha

Survey No./ Sub-Div. No.	Names of the persons believed to be interested	Area in sq. mts.
1	2	3
71/1 Part	O: Nascimento Vaz.	280
71/3 Part	O: Nascimento Vaz. T: Joao Menino Vaz.	288

## Boundaries :

North : S. No. 72/18.

South : S. No. 71/1, 3.

East : S. No. 70/13.

West : Road.

Total: 568

By order and in the name of the Governor  
of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 24th January, 2013.

## Notification

No. 23/29/2011-RD

Whereas by Government Notification No. 23/29/2011-RD dated 02-12-2011 published on Series II No. 36 of the Official Gazette dated 02-12-2011 and in two newspapers (1) "Herald" dated 08-12-2011 and (2) "Pudhari" dated 08-12-2011 it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land) was needed for public purpose, viz. Land Acquisition for flood control measures for flood prone area and improvement of waterways to Valvanta River in Bicholim Taluka regarding construction of flood control retaining wall and heightening of existing bund from water treatment plant to wooden bridge at Sanquelim (Phase II).

And whereas, the Government of Goa (hereinafter referred to as the "Government") being of the opinion that the acquisition of the said land is urgently necessary, hereby applies the provisions of sub-section (1) of Section 17 of the said Act and directs that the Collector appointed under

paragraph 2 below, shall, at any time, on the expiry of fifteen days from the date of the publication of the notice relating to the said land under sub-section (1) of Section 9 of the said Act, take possession of the said land.

Now, therefore, the Government hereby declares under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government also hereby appoints under clause (c) of Section 3 of the said Act, the Deputy Collector/SDO, Bicholim-Goa to perform the functions of the Collector for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the Deputy Collector/SDO, Bicholim-Goa till the award is made under Section 11.

#### SCHEDULE

(Description of the said land)

*Taluka:* Bicholim *Village:* Cassabe De Sanquelim

Survey No./ /Sub-Div. No.	Name of the person believed to be interested	Area in sq. mts.
1	2	3
33/8 Part	O: Vinayak Nilkanth Borkar.	376
<i>Boundaries :</i>		
North: Village Carapur, River.		
South: S. No. 33/8.		
East : S. No. 33/9.		
West : S. No. 33/6.		
Total:		376

By order and in the name of the Governor of Goa.

*Anju S. Kerkar*, Under Secretary (Revenue-II).

Porvorim, 28th January, 2013.

#### Notification

No. 22/25/2010-RD

Whereas by Government Notification No. 22/25/2010-RD dated 04-10-2011 published on pages 648 to 649 of Series II No. 27 of the Official Gazette, dated 07-10-2011 and in two newspapers

(1) "Herald" and (2) "Gomantak" both dated 05-10-2011, it was notified under Section 6 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that the land, specified in the Schedule appended to the said Notification (hereinafter referred to as the said land) was needed for the public purpose viz. Land Acquisition for construction of Panchayat Ghar-cum-Market Complex under survey No. 109/1 in Village Panchayat Paroda, Salcete Taluka.

And whereas, in the opinion of the Government of Goa (hereinafter referred to as the "Government"), the said land as specified in the appended Schedule hereto is not required for the aforesaid purpose.

Now, therefore, the Government is pleased to declare under sub-section (1) of Section 48 of the said Act that it has withdrawn from acquisition of the said land more particularly described in the Schedule appended hereto for the aforesaid purpose and that the aforesaid Government Notification shall be deemed to be modified to that extent so far as it relates to the said land. The persons interested in the said land, may lodge to the Dy. Collector (LA), South Goa District, Margao-Goa, within a period of 30 days from the date of this Notification claims under sub-section (2) of Section 48 of the said Act, for the damages suffered by them in consequence of the notice or of any proceedings thereunder and for costs reasonably incurred by them in prosecution of the proceedings under the said Act relating to the said land.

A plan of the land shall be available for inspection in the office of the Dy. Collector (LA), South Goa District, Margao-Goa, for a period of 30 days from the date of publication of this Notification.

#### SCHEDULE

(Description of the said land)

*Taluka:* Salcete

*Village:* Paroda

Survey No./ /Sub-Div. No.	Names of the persons believed to be interested	Approx. area in sq. mts.
1	2	3
109/1 (P)	O: Pedro Joao D'Souza. T: Filipe Fernandes. Antonio Baptista Fernandes.	85
109/4 (P)	O: Pedro Joao D'Souza. T: Pedro Lima.	85
109/5	O: Pedro Joao D'Souza. T: Filipe Fernandes.	70

1	2	3	1	2	3
109/6	O: Pedro Joao D'Souza. T: Pedro Lima.	75	109/38	O: Pedro Joao D'Souza. T: Filipe Fernandes.	50
109/7	O: Pedro Joao D'Souza. T: Filipe Fernandes.	137	109/39	O: Pedro Joao D'Souza. T: Pedro Lima.	125
109/8	O: Pedro Joao D'Souza. T: Pedro Lima.	130	109/43 (P)	O: Fabrica de Igreji de Paroda.	220
109/9	O: Pedro Joao D'Souza. T: Filipe Fernandes.	140	<i>Boundaries :</i>		
109/10	O: Pedro Joao D'Souza. T: Pedro Lima.	122	North: S. No. 109/4 to 11, 43.		
109/11	O: Pedro Joao D'Souza.	147	South: S. No. 109/27, 35, 36, 29, 37, 30 & 34.		
109/15	O: Pedro Joao D'Souza. T: Minguel Lima.	325	East : Road.		
109/16	O: Pedro Joao D'Souza. Filipe Fernandes.	1450	West : S. No. 109/4, 1, 19, 20, 25 & 27.		
109/17	O: Pedro Joao D'Souza. T: Filipe Fernandes.	150	Total: 7458		
109/18	O: Pedro Joao D'Souza. T: Pedro Lima.	150	By order and in the name of the Governor of Goa.		
109/19 (P)	O: Pedro Joao D'Souza. T: Pedro Lima.	348	Ashutosh Apte, Under Secretary (Revenue-I).		
109/20 (P)	O: Pedro Joao D'Souza. T: Filipe Fernandes. Minguel Lima. Antonio Baptista Fernandes.	1384	Porvorim, 28th January, 2013.		
109/21	O: Pedro Joao D'Souza. T: Pedro Lima.	325	<b>Notification</b>		
109/22	O: Pedro Joao D'Souza. T: Pedro Lima.	150	No. 23/21/2012-RD		
109/25 (P)	O: Pedro Joao D'Souza. T: Antonio Baptista Fernandes.	84	Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for Conservation Reserve at Galgibag Poigunim for Turtle Nesting.		
109/26	O: Pedro Joao D'Souza. T: Pedro Lima.	175	Now, therefore, the Government hereby notifies under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that said land is likely to be needed for the purpose specified above.		
109/27 (P)	O: Pedro Joao D'Souza. T: Filipe Fernandes.	450	2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this notification, will under clause (seventh) of Section 24 of the said Act be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.		
109/28	O: Pedro Joao D'Souza. T: Pedro Lima.	100			
109/29 (P)	O: Pedro Joao D'Souza. T: Filipe Fernandes.	154			
109/30	O: Pedro Joao D'Souza. T: Minguel Lima, Pedro Lima.	150			
109/31	O: Pedro Joao D'Souza. T: Antonio Baptista Fernandes.	125			
109/32	O: Pedro Joao D'Souza. T: Antonio Baptista Fernandes.	50			
109/33	O: Pedro Joao D'Souza. T: Minguel Lima.	50			
109/34 (P)	O: Feleciano Pereira.	357			
109/35 (P)	O: Pedro Joao D'Souza. T: Pedro Lima.	45			
109/36 (P)	O: Pedro Joao D'Souza. T: Antonio Baptista Fernandes.	45			
109/37 (P)	O: Pedro Joao D'Souza. T: Filipe Fernandes.	5			

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of Section 3 of the said Act, the Land Acquisition Officer PWD (Cell), Altinho, Panaji-Goa to perform the functions of a Collector, under the said Act in respect of the said land.

5. The Government also authorizes under sub-section (2) of Section 4 of the said Act, the following Officers to do the acts, specified therein in respect of the said land.

1. The Collector, South Goa District, Margao-Goa.
2. The Land Acquisition Officer PWD (Cell), Altinho, Panaji-Goa.
3. The Dy. Conservator of Forests, Wildlife & Ecotourism, Panaji-Goa.
4. The Director of Settlement and Land Records, Panaji-Goa.

6. A rough plan of the said land is available for inspection in the Land Acquisition Officer PWD (Cell), Altinho, Panaji-Goa for a period of 30 days from the date of publication of this Notification in the Official Gazette.

## SCHEDULE

(Description of the said land)

Taluka: Canacona

Village: Poiguinim

Survey No./ Sub-Div. No.	Names of the persons believed to be interested	Approx. area in sq. mts.
1	2	3
176/1 p	1. Savior Sadashiv Rajendra. Bhasvalinga Vadiyar Raja. 2. Premavati Raja. 3. Devappa Narayan Bhandari. 4. Santana Bareto. 5. Luiza Bareito. 6. Nathlyn Nikila Pillai. 7. Agnela D'Sa. 8. M/s. Vijay R. Kirloskar.	122260

1	2	3
	9. M/s. Kirloskar Investment and Finance Ltd.	
	10. Virendra Mohan Trehan	
	11. Ministry of Roads Transport and Highway, Government of India.	
	12. Manuel Barretto.	
	13. Dorina D'Sa alias Dorina Barretto e D'sa.	
	14. Francisco Vitorino Barretto.	
176/1 -C p	1. Chandrakala Chandrakant Naik.	10
176/1 -H p	1. John Constancio Barreto.	125
176/1 -F	1. Fatima Barreto.	759
176/1 -E	1. Gil A. G. Melo Pinto.	854
176/1 -D	1. Simon Fernandes.	1075
173/1 p	1. Savior Sadashiv Rajendra. Bhasavlinga Vadiyar Raja. 2. Padmavati Raja. 3. Nazareline D'Costa. 4. Domnic D'Costa. 5. Isidore D'Costa. 6. Lawrence D'Costa. 7. Sadanand Yesso Bhandari. 8. Luiz Antonio Cardozo. 9. Juana Cardozo. 10. Ramond Afonso. 11. Fatima Barreto. 12. Carmina Rosario Afonso. 13. Gopal Pandu Canconkar. 14. Fatima D'Costa. 15. Trifina Fernandes. 16. Santana Fernandes. 17. Manuel Inacio Rodrigues. 18. John Pereira. 19. Conceicao D'Costa. 20. Solano August Cardozo. 21. Remiz Cardozo. 22. Assis F. Cardozo. 23. Confredos Fundos Reunidos de Galgibag. 24. Charles Terry Cardozo. 25. Gokuldas Mahadeo Naik. 26. Shakuntala Gokuldas Naik. 27. Matilda Filipa Rosa. 28. Antoneita Fernandes. 29. James Minin Borges.	53075



1	2	3
	30. Ireinen Fernandes.	
	31. Ministry of Roads Transport and Highways, Government of India.	
	32. Anthony Pereira.	
	33. The Executive Engineer, Works Division XX(R), PWD.	
	34. Manuel Barretto.	
	35. Televiza D'Costa.	
	36. Joaquim Dias.	
173/1 -AF p	1. James Minin Borges.	440
173/1 -V p	1. Gita Bhalla.	900
	2. Ritu Dalmia.	
173/1 -S p	1. Ritu Dalmia	375
	2. Gita Bhalla.	
173/1 -AG p	1. Lata Sadanand Bhandari.	120
173/1 -AC	1. Charles Terry Cardoz.	392
173/1 -AB p	1. Smt. Matilda Filipia Rosa.	500
173/1 -I p	1. Luis Antonio Cardoz.	175
173/1 -M p	1. Fermina Barreto.	140
173/1 -R p	1. Antonio D'Costa.	55
	2. Maria Antonio D'Costa.	

*Boundaries :*

North: S. No. 190/1, Road.

South: River Galgibag.

East : Road, S. No. 173/1 Part, 1-R Part,  
1-M Part, 1-I Part 3, 1-AB Part,  
1-AK Part, 1-AG Part, 1-AG Part,  
1-V Part, 1-S Part, 1-AF Part,  
176/1 Part, 177/26, 25, 24, 23,  
21, 20, 19, 15, 12, 11, 8, 7, 6,  
1-H Part, 1-C Part.

West : Arabian Sea.

Total: 181255

By order and in the name of the Governor  
of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 24th January, 2013.

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### Department of Tribal Welfare

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#### Directorate of Tribal Welfare

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**Notification**

No. 1/15/2012-13/ADMN/TW/5247

Government is pleased to constitute the Sub-Divisional Level Committee for Dharbandora Sub-Division of the State of Goa under the

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to examine the resolution passed by the Gram Sabhas and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee.

The Sub-Divisional Level Committee of Dharbandora consists of the following members:

1. Dy. Collector & Sub-Divisional Officer,  
Dharbandora Sub-Division ... Chairperson.
2. Sub-Divisional Forest Officer, Dharbandora ... Member.
3. Shri Shamba Bhaskar Gaude, ... Member.  
Panch, V. P. Dharbandora
4. Smt. Kalpana Anil Malekar, ... Member.  
Dy. Sarpanch, V. P. Molem
5. Shri Shirish G. Dessai, ... Member.  
Sarpanch, V. P. Sancordem
6. B.D.O., Dharbandora Block ... Member  
Representative of Tribal Welfare Department Secretary.

The functions of the Sub-Divisional Level Committee is as under:

- a. Provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;
- b. Provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- c. Collate all the resolutions of the concerned Gram Sabhas;
- d. Consolidate maps and details provided by the Gram Sabhas;
- e. Examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- f. Hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- g. Hear petitions from persons, including state agencies, aggrieved by the resolutions of the Gram Sabhas;

- h. Co-ordinate with other Sub-Divisional Committees for inter Sub-Divisional Claims;
- i. Prepare block or Tehsil-wise draft record of proposed forest after reconciliation of Government records;
- j. Forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;
- k. Raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the Rules;
- l. Ensure easy and free availability of proforma of claim to the claimants as provided in Annexure-I (Form A, B & C) of these Rules;
- m. Ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

The aforesaid Committee shall have compulsory minimum sitting once in a week. This order is issued with the approval of the Government.

By order and in the name of the Governor of Goa.

Sd/- (Arvind V. Bugde), Director of Tribal Welfare.

Panaji, 25th January, 2013.

## Department of Women & Child Development

Directorate of Women & Child Development

### — Order

F. No. 2-125-2006/DW&CD/Creation/Part I

Government of Goa is hereby pleased to appoint Kum. Leila Badyari, as Social Welfare Officer/ Probation Officer for the Child Welfare Committee(s), North Goa and South Goa, at Apna Ghar, Mercas, Goa on contract basis on a consolidated remuneration of ₹ 20,000/- (Rupees twenty thousand only) per month for a period of ten months from the date of her joining the duties.

Her appointment is subject to the executing the agreement specifying the terms and conditions of her contract.

The expenditure in respect of the above post shall be debited to the Budget Head "2235—Social Security and Welfare, 02—Social Welfare, 106—Correctional Services, 01—Programme for Delinquent Children (Non-Plan), 02—Wages of Apna Ghar, Mercas.

By order and in the name of the Governor of Goa.

Sd/- (Sunil P. Masurkar), Director & ex officio Joint Secretary (WCD).

Panaji, 4th February, 2013.

[www.goaprintingpress.gov.in](http://www.goaprintingpress.gov.in)

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